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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,919	03/10/2004	Jeffrey Lewis Brandt	1033-LB1049	3346
60533	7590	12/13/2007		
TOLER LAW GROUP 8500 BLUFFSTONE COVE SUITE A201 AUSTIN, TX 78759			EXAMINER FRANKLIN, JAMARA ALZAIDA	
			ART UNIT 2876	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/797,919		BRANDT ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Jamara A. Franklin		2876	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-22 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

Acknowledgment is made of the amendment filed on November 09, 2007. Claims 1-22 are currently pending.

### ***Claim Objections***

1. Claims 1 and 22 are objected to because of the following informalities:  
in claim 1, line 3, substitute "whether" with --when--; and  
in claim 22, line 5, substitute "whether" with --when--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6, 9-12, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (US 2003/0144952) (hereinafter referred to as 'Brown').

Brown teaches a method comprising:

providing a notification message to a payment card holder of an attempted transaction

using a payment card when the attempted transaction satisfies a threshold-based rule (the determination of the comparison of an inputted PIN) to allow the notification message to be provided (paragraph 37);

wherein the notification message includes a plurality of options for the payment card holder to decline authorization of the attempted transaction (paragraph 37);

the method wherein the plurality of options comprise a first option for the payment card holder to decline authorization of an undesirable but non-fraudulent transaction (steps 332 and 334), and a second option for the payment card holder to decline authorization of a fraudulent transaction (steps 332, 336, 338, 340, and 342) (paragraph 37);

the method further comprising:

receiving a selection made by the payment card holder of the second option (paragraph 37); and

based on the selection, automatically reporting the fraudulent transaction to a law enforcement authority (paragraphs 37 and 45);

the method wherein the notification message indicates a transaction amount, a merchant name, and at least part of a number of the payment card (paragraph 37);

a system comprising:

a payment card transaction notification and authorization system configured to provide a notification message to a payment card holder of an attempted transaction using a payment card, to provide a first option for the payment card holder to decline authorization of the attempted transaction, to provide a second option for the payment card holder to decline authorization of the attempted transaction, and to decline authorization of the attempted transaction in response to

receiving information indicating an input selecting the first option or the second option by the payment card holder;

the system wherein a first option relates to declining authorization of an undesirable but non-fraudulent transaction, and the second option relates to declining authorization of a fraudulent transaction;

the system wherein the payment card transaction notification and authorization system is further configured to automatically report the fraudulent transaction to a law enforcement authority in response to receiving information indicating an input selecting the second option by the payment card holder; and

the method and system wherein the payment card transaction notification and authorization system is further configured to provide an option for the payment card holder to authorize the transaction (steps 325 and 326).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Walker et al. (US 5,999,596) (hereinafter referred to as 'Walker').

The teachings of Brown have been discussed above.

Brown lacks the teaching of returning the payment card to an individual attempting the transaction.

Walker teaches a method and system of returning a payment card to an individual attempting a transaction (col. 10, lines 45-54).

One of ordinary skill in the art would have readily recognized that providing the Brown invention with the step of returning the payment card to an individual attempting the transaction would have been beneficial for a case in which the individual attempting the transaction is a child of a cardholder. Returning the card to the child would then be expected and necessary in circumstances where the child has not stolen the card from the parent so that the child may use the card in the future. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Brown with the aforementioned teaching of Walker.

7. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Slater et al. (US 4,114,027) (hereinafter referred to as 'Slater').

The teachings of Brown have been discussed above.

Brown lacks the teaching of withholding the payment card from an individual attempting the transaction.

Slater teaches a method and system wherein a payment card is withheld from an individual attempting a transaction (col. 12, lines 50-63).

One of ordinary skill in the art would have readily recognized that providing the Brown invention with the withholding of the payment card would have been beneficial for ensuring that the card is no longer active within a business environment thereby protecting vendors and merchandise against future fraud. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Brown with the aforementioned teaching of Slater.

8. Claims 5, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Gopinathan et al. (US 5,819,226) (hereinafter referred to as 'Gopinathan').

The teachings of Brown have been discussed above.

Brown lacks the teaching of locking an account.

Gopinathan teaches a method and system comprising locking an account (col. 4, lines 3-7).

One of ordinary skill in the art would have readily recognized that providing the Brown invention with the locking of an account would have been beneficial for ensuring the account may not be manipulated in a manner that would financially hurt an actual cardholder in the event that the actual cardholder is unaware of the fraud. Therefore, it would have been

obvious, at the time the invention was made, to modify the teachings of Brown with the aforementioned teaching of Gopinathan.

9. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Cheechio (US 6,052,675).

The teachings of Brown have been discussed above.

Brown lacks the teaching of automatically reporting the fraudulent transaction to a credit reporting agency (col. 1, lines 26-30); and

Cheechio teaches a method and system of automatically reporting a fraudulent transaction to a credit reporting agency (col. 1, lines 26-30).

One of ordinary skill in the art would have readily recognized that providing the Brown invention with the method of reporting the fraudulent transaction would have been beneficial for allowing a record to be kept of the fraud and thereby possibly enabling the faculty to take action toward the security of the actual cardholder. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings Brown with the aforementioned teaching of Cheechio.

10. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Taylor (US 2003/0182214).

The teachings of Brown have been discussed above.

Brown lacks the teaching of a reason code.

Taylor teaches a method and system of sending a reason code involved in an

attempted transaction (paragraph 44).

One of ordinary skill in the art would have readily recognized that providing the Brown invention with a reason code would have been beneficial for ensuring that the exact reason for the decline is indicated, thereby allowing the merchant react accordingly for the best interest of the card holder. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Brown with the aforementioned teaching of Taylor.

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Tubinis (US 2003/0014367).

The teachings of Brown have been discussed above.

Brown lacks the teaching of a short messaging service.

Tubinis teaches a system wherein a purchase limit is increased based on a short message service (SMS) received from a payment card holder.

One of ordinary skill in the art would have readily recognized that providing the Brown invention with a short messaging service for increasing a purchasing limit would have been beneficial for ensuring that a purchasing limit is adequate enough for a purchase so as to prevent the cardholder from not being able to attain a desired product or service. Therefore, it would have been obvious at the time the invention was made, to modify the teachings of Brown with the aforementioned teaching of Tubinis.

*Response to Arguments*

12. Applicant's arguments filed November 09, 2007 have been fully considered but they are not persuasive.

In response to the newly amended independent claims including the limitation citing "...the attempted transaction satisfies a threshold-based rule to allow the notification message to be provided" and in response to the assertion that the Brown invention and other prior art cited in the rejections above do not teach the new limitation, the examiner contends that the Brown invention does indeed read upon the previously rejected claims as newly amended.

The examiner relies on the steps of paragraph 37 and figure 3c (i.e. steps 325, 328, 332, 336, 338, 340, 342, and 334) of the Brown invention to support the 102(b) rejection of the claims. Paragraph 37 states that "If, however, a matching PIN is provided, then the server will provide information concerning the pending transaction to the account holder for approval". This passage reads upon the newly added limitation citing "...the attempted transaction satisfies a threshold-based rule to allow the notification message to be provided" since only when the inputted PIN is found to match a PIN previously stored in a database is the notification message to the payment card holder allowed to be sent. The matching of the PIN is considered a threshold which must be overcome in order to provide the notification message to the payment card holder.

The steps used to support the 102(b) rejection disclose a method wherein, after an inputted PIN is found to match, a message is sent to the account holder to reject or approve the transaction. If the account holder chooses to reject the transaction (in what is considered the second response), a next message is sent to the account holder querying whether the rejection is

for suspected unauthorized use of the account. The account holder then indicates (in what is considered the third response) whether or not the transaction is refused because of unauthorized use.

In response to the argument that the Brown invention fails to disclose a method wherein the notification message indicates at least part of a number of the payment card, the examiner contends that in paragraph 37 of the Brown invention various numbers in relation to the payment card are indeed included in the notification message including the dollar amount of the desired transaction and the number of transactions authorized that day. Also, paragraph 37 indicates that "other information that may be deemed important by the account holder and the card provider" may be included in the notification message. This will usually be any identifying information that identifies the specific account to the account holder, including at least the last few digits of the account number. Therefore, claims 10 and 20 remain rejected in view of the Brown invention.

In view of the preceding explanation of the 102(b) rejection, claims 1, 2, 6, 9-12, 16, 19, and 20 remain rejected accordingly. Furthermore, the 103(a) rejections of the dependent claims also remain as indicated above.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

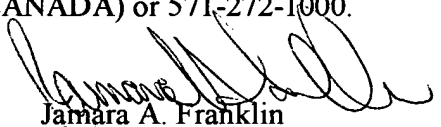
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
December 07, 2007